

FILED

JAN 18 2012

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

DAVID CREWS, CLERK
BY  Deputy

DARRIS SIMS,

Plaintiff,

VS.

Civil Action No. 2:12CV005-P-V

INCA PRESSWOOD-PALLETS, LTD.,

Defendant.

COMPLAINT

COMES NOW, Plaintiff, Darris Sims, by and through undersigned counsel, and files this, his Complaint against Defendant, INCA Presswood-Pallets, LTD., for personal injuries and for cause of action would show unto the Court, the following facts, to-wit:

PARTIES

1. Plaintiff, Darris Sims, is an adult resident citizen of Lee County, Arkansas, residing at 480 Center St., Marianna, Arkansas 72360.
2. Defendant, INCA Presswood-Pallets, LTD, is a corporation organized and existing pursuant to the laws of the State of Delaware, but is registered in and is doing business within the State of Mississippi, and may be served with process of this Court by serving its registered agent for service of process, Thomas S. Shuller, 107 West McLaurine, Sardis, Mississippi 39666.

JURISDICTION

3. This Court has jurisdiction of this cause of action pursuant to 28 U.S.C. §1332, as the matter in controversy exceeds, exclusive of interest and costs, \$75,000.00.

VENUE

4. Venue is proper in this Court in that the accident giving rise to this cause of action occurred or accrued in Panola County, Mississippi.

FACTS

5. On or about April 12, 2010, Plaintiff, driving his 18-wheeler truck, went to INCA Presswood-Pallets, LTD., to receive a load of pallets. Plaintiff pulled up to the loading dock to have his truck loaded. At all pertinent times herein, Plaintiff was a business invitee while on the premises of INCA Presswood-Pallets LTD.

6. Plaintiff was on the loading dock watching his truck being loaded. At all times, Plaintiff was exercising due care for his safety and others in the vicinity. Plaintiff, while waiting for his truck to be loaded, leaned against a rail located on the loading dock. Suddenly, and without warning, the rail gave way, causing Plaintiff to fall approximately four to six feet upon his head, shoulder, and knee causing serious and permanent injury to him.

COUNT 1

NEGLIGENCE

Duty

7. Defendant, INCA-Presswood Pallets, LTD., at all times pertinent hereto, had a duty to business invitees, such as Plaintiff, to exercise reasonable care to keep the premises in a reasonably safe condition or to warn invitees of dangerous conditions, not readily apparent, which the owner or occupant knows of or should have known the existence of.

BREACH OF DUTY

8. Defendant breached its duty to the Plaintiff in that a dangerous condition existed on

the premises by allowing a rail to exist upon the premises, which had not been properly affixed to the concrete, so as not to give way when Plaintiff leaned upon it.

9. This condition existed at a time when Defendant knew or should have known of the dangerous condition created by the loose or improperly affixed rail. Defendant neither warned the Plaintiff of the dangerous condition then and there existing, nor remedied the dangerous condition.

CAUSATION

10. As a direct and proximate result of the aforesaid negligence of the Defendant, INCA Presswood-Pallets, LTD., the Plaintiff suffered damages.

DAMAGES

11. Plaintiff suffered damages to his body and mind, to include the following injuries:
- a. Injuries to his back, knee and shoulder;
 - b. Mental and emotional pain and suffering and psychological damage (past and present);
 - c. Loss of wages (past, present and future);
 - d. Medical expenses (past and present);
 - e. Loss of wage earning capacity; and
 - f. Physical pain and suffering (past and present).

WHEREFORE, PREMISES CONSIDERED, Plaintiff brings this cause of action against Defendant and prays that process issue to Defendant to appear and answer the allegations contained herein. Plaintiff demands judgment of and from Defendant, in the amount of \$750,000.00, all costs in this action, and any and other relief which Plaintiff is entitled. If Plaintiff has prayed for improper or inadequate relief, then he now prays for adequate relief in the premises.

Plaintiff demands trial by jury.

RESPECTFULLY SUBMITTED, this the 10th day of January, 2012.

A handwritten signature in black ink, appearing to read "Frank J. Dantone", written over a horizontal line.

FRANK J. DANTONE, MSB # 5762

LEE B. HAZLEWOOD, MSB #8583

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